IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3009 OF 2005

Vasant Baburao Bhandare ..Applicant

Vs.

Sambhaji Ramchandra Mane
and Anr. ..Respondents

...

Mr.I.M.Khairdi Advocate for Applicant
Mr.Y.S.Shinde A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : JUNE 20, 2005

P.C.

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant is seeking quashing of proceedings relating to STC No. 8204 of 2003 (old STC No.4610/2000). In the said case process was issued under Section 138 of Negotiable Instruments Act. The applicant preferred before the learned Magistrate an application for recall of process.

The said application came to be rejected by the learned Magistrate in view of the decision in the case of **Adalat Prasad Vs. Rooplal Jindal and others 2004 (4) Mh.L.J. 274.** In view of the decision in the case of Adalat Prasad, in my opinion, no fault can be found with the order of the learned Magistrate dated 13.1.2005 whereby he rejected the application for recall of process.

3. For the reasons recorded in my order dated 8th June, 2005 in Cri.Application No. 645 of 2005 and order dated 13th June, 2005 in W.P.No. 213 of 2005, in my view, it is clear that the applicant has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicant prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer the necessary revision before the concerned Sessions Court. It is made clear that the said revision would be in respect of the order of

Magistrate issuing process and not in respect of the order of learned Magistrate dated 13th January, 2005. Exemption from personal appearance before the trial Court is granted to the applicant for a period of three weeks from today.

5. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. Criminal Application is disposed of.

[V.K.TAHILRAMANI,J.]